



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 165**

**[Docket Number USCG-2018-1014]**

**RIN 1625-AA87**

### **Security Zone; Corpus Christi Ship Channel, Corpus Christi, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone for navigable waters within a 500-yard radius of LNG GOLAR TUNDRA while the vessel transits within the Corpus Christi Ship Channel and La Quinta Channel. A temporary security zone of the receiving facility's mooring basin will also remain in effect while LNG GOLAR TUNDRA is moored at the facility. The security zones are needed to protect personnel, vessels, and the marine environment from potential hazards created by LNG cargo aboard the vessel. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Corpus Christi.

**DATES:** This rule is effective without actual notice from [insert date of publication in the Federal Register] through November 21, 2018. For the purposes of enforcement, actual notice will be used from November 11, 2018 through [insert date of publication in the Federal Register].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2018-1014 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LCDR Margaret Brown, Sector Corpus Christi Waterways Management

Division, U.S. Coast Guard; telephone 361-939-5130, e-mail

Margaret.A.Brown@uscg.mil

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Corpus Christi
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. LNG GOLAR TUNDRA is scheduled to be transit inbound on November 11, 2018 and anticipated to depart on November 21, 2018, and it is

impracticable to publish an NPRM because we must establish this security zone by November 11, 2018. The security zone must be in effect through those dates in order to serve its purpose of ensuring the safety and security of the public and marine environment from hazards associated with the LNG cargo.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the *Federal Register*. Delaying the effective date of this rule would be impracticable because immediate action is needed to establish the security zone to ensure the safety and security of the public and marine environment from hazards associated with the LNG cargo.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the transit and mooring of LNG GOLAR TUNDRA from November 11, 2018 through November 21, 2018, will be a safety concern for anyone within a 500-yard radius of the vessel, and while LNG GOLAR TUNDRA is moored within the mooring basin, bound by 27°52'53.38" N, 097°16'20.66"W on the northern shoreline; thence to 27°52'45.58" N, 097°16'19.60"W; thence to 27°52'38.55"N, 097°15'45.56"W; thence to 27°52'49.30"N, 097°15'45.44"W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66"W. This rule is needed to protect the public and marine environment while the vessel is transiting and moored within the COTP zone.

### **IV. Discussion of the Rule**

This rule establishes a security zone from the time LNG GOLAR TUNDRA enters the Corpus Christi Ship Channel on November 11, 2018 until departure on or

about November 21, 2018. The moving security zone will cover all navigable waters within a 500-yard radius of LNG GOLAR TUNDRA while transiting inbound and outbound through the Corpus Christi Ship Channel and La Quinta Channel, and the fixed security zone will cover all waters bound by 27°52'53.38" N, 097°16'20.66"W on the northern shoreline; thence to 27°52'45.58" N, 097°16'19.60"W; thence to 27°52'38.55"N, 097°15'45.56"W; thence to 27°52'49.30"N, 097°15'45.44"W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66"W, while LNG GOLAR TUNDRA is moored at the facility. No vessel or person will be permitted to enter the security zones without obtaining permission from the COTP or a designated representative.

Entry into the security zones is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi. Persons or vessels desiring to enter or pass through the zones must request permission from the COTP or a designated representative on VHF-FM channel 16 or by telephone at 361-939-0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the security zones.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the security zones. Vessel traffic will only be impacted for a short duration of time in the immediate area of the LNG GOLAR TUNDRA during its transit and in the area of the facility while the vessel is moored. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zones and the rule allows vessels to seek permission to enter the zones.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic

impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zones may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. This rule involves security zones around navigable waters within a 500-foot radius of the transiting LNG GOLAR TUNDRA and within the mooring basin. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under

## **ADDRESSES.**

### **G. Protest Activities**

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-1014 to read as follows:



§165.T08-1014 Security Zone; Corpus Christi Ship Channel. Corpus Christi, TX.

(a) Location. The following area is a security zone:

(1) For LNG GOLAR TUNDRA transiting shoreward of the seaward extremity of the Aransas Pass Jetties in the Corpus Christi Ship Channel and La Quinta Channel, the waters within a 500 yards of LNG GOLAR TUNDRA while transiting until moored.

(2) The mooring basin bound by 27°52'53.38" N, 097°16'20.66"W on the northern shoreline; thence to 27°52'45.58" N, 097°16'19.60"W; thence to 27°52'38.55"N, 097°15'45.56"W; thence to 27°52'49.30"N, 097°15'45.44"W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66"W, while LNG GOLAR TUNDRA is moored.

(b) Effective/enforcement period. This section is effective without actual notice from [insert date of publication in the Federal Register] until November 21, 2018. For the purposes of enforcement, actual notice will be used from November 11, 2018 through [insert date of publication in the Federal Register]. Enforcement of this section began from the time LNG GOLAR TUNDRA entered the Corpus Christi Ship Channel on November 11, 2018 and will continue until LNG GOLAR TUNDRA's departure on or about November 21, 2018.

(c) Regulations. (1) The general regulations in §165.33 of this part apply. Entry into these zones are prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons or vessels desiring to enter or pass through the zones must request

permission from the COTP Sector Corpus Christi on VHF-FM channel 16 or by telephone at 361-939-0450.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) Information broadcasts. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and date for these security zones.

Dated: November 9, 2018

J. E. SMITH,

CAPTAIN, U.S. Coast Guard,

Acting Captain of the Port Sector Corpus Christi.

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